

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY**

In the Matter of )

Advanced Television Systems )  
and Their Impact Upon the )  
Existing Television Broadcast )  
Service )

MM Docket No. 87-268

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To: The Commission

**COMMENTS OF LA DOV EDUCATIONAL OUTREACH, INC.  
ON THE SIXTH NOTICE OF PROPOSED RULE MAKING**

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**COMMENTS OF LA DOV EDUCATIONAL OUTREACH, INC.  
ON THE SIXTH FURTHER NOTICE OF PROPOSED RULE MAKING**

These Comments on the Commission's Sixth Further Notice of Proposed Rule Making (FCC 96-207), released August 14, 1996 ("Notice"), are submitted on behalf of La Dov Educational Outreach, Inc. ("La Dov"), by its undersigned attorneys. La Dov is an applicant for a new non-commercial television station on channel 52 in Sacramento, California (BPET-900312KG), and submits these Comments in response to the Commission's Notice concerning the assignment of digital television ("DTV") channels to existing television ("NTSC") broadcast stations.

La Dov is a nonprofit, nonstock educational organization recognized as a tax-exempt entity under both California and Federal law, which is controlled by women proposing, upon information and belief, the nation's first public television station controlled by women. The scope and substance of La Dov's proposed programming is demonstrably non-commercial. No less than 63% of the station's programming will be dedicated to educational purposes generated by a consortium of all accredited public and private elementary, junior and high

schools, Parent-Teacher Associations, colleges, universities and city/county libraries in the Sacramento area. Such programming, at present, is dramatically under represented in the region. The balance of La Dov's proposed programming schedule will be dedicated to local programming of societal benefit (*e.g.*, just under 50% consisting of "Senior Stance," a daily program focussing on the concerns of seniors in the area).

On February 20, 1986, Joan Carlino (Sisk) filed a Petition for Rule Making to allot non-commercial television station Channel 52 to Sacramento (Docket 86-246). On December 28, 1987, the Commission amended its table of allotments to include Channel 52 in Sacramento, an action taken subsequent to the Commission's entry on July 17, 1987 of its Freeze Order, freezing the acceptance of UHF television applications in markets such as Sacramento. The application has been pending since that time, and the applicant awaits its issuance on a "cut-off" list.

On March 12, 1990, La Dov, through its president and director Joan Carlino-Sisk, filed its application for a new non-commercial television station on Channel 52, Sacramento, at the same time filing its request for waiver of the Commission's Freeze Order.

The Commission's present Rule Making, representing one of the final steps in implementing advanced digital television programming, strongly bears upon La Dov's application for a permit to construct a new, non-commercial television station to be aired on Channel 52, and thereby fulfill its educational programming mission for the betterment of the Sacramento region.

In its Notice, the Commission proposes a series of altogether laudable, sensible means of assigning and allotting DTV channels. Many of the proposal outlined in the Notice (*e.g.*,

pairing channels to replicate extant service areas and to reduce new interference, using terrain modeling, and accepting industry coordinated channel changes) will inevitably redound to the public's benefit, serving to rationalize the channel assignment process and assure continuity of the public's existing service.

At the same time, other proposals contained in the Notice, in particular the "core-channel" plan, will needlessly, and demonstrably, disrupt the transition to DTV and inevitably deprive the public of the benefits of full television service. Indeed, the manifold benefits of the Commission's enlightened initiative to employ purely technical criteria to pair existing stations with DTV channels is at cross-purposes with its core-channel plan. The core-channel plan proposed in the Notice is designed to concentrate DTV assignments between channels 7 and 51 (the core region) and to make as few DTV assignments as possible between channels 52 and 69 so that this spectrum can be auctioned in the near future. See Notice, at 14-16. In this way, the Commission theorizes, channels 2-6 and 52-69 will be recovered at the conclusion of a transition period in which both DTV and existing NTSC stations will be operated.

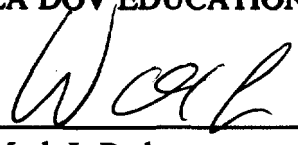
As noted in the attached Engineering Statement of Kevin T. Fisher, of the Washington, D.C. firm of Smith and Fisher, this approach is not only unfair, it imposes a severe constraint on the allotment/assignment process, a constraint that would needlessly harm the public's current television service and impede its future DTV service. The shortcomings of the Commission's proposed core channel approach will be most evident with respect to entities such as Petitioner La Dov, which has not yet received permission to broadcast over Channel 52, despite the extended pendency of its application and request for waiver. As noted by Mr. Fisher, the Commission's own spacing study relating to the allocation table appearing in the

Notice, it appears that Channel 52 can be implemented in Sacramento without harmful effect on DTV operations in the vicinity. The allocation of Channel 52 to La Dov will not serve to interfere with the Commission's proposal to assign Channels 52 and 53 to WCAH and KXTL, in Watsonville and Sacramento, respectively.

La Dov supports the DTV table of assignments contained in the Notice. At the same time, La Dov respectfully requests that a DTV channel be assigned to the non-commercial television allotment on Channel 52 in Sacramento. Only in doing so will future educational programming from that allotment survive the envisioned transition period contemplated by the Commission. In the alternative, La Dov respectfully states that it opposes the Commission's packing and spectrum reclamation plan; this is because Channel 52 is beyond the core region and therefore risks reclamation after this same transition period. The solution lies in the Commission permitting DTV operation on all UHF channels. If this were the case, a DTV channel could readily be assigned to Channel 52 in Sacramento.

Respectfully submitted this the 22nd day of November, 1996.

LA DOV EDUCATIONAL OUTREACH, INC.

  
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ENGINEERING STATEMENT

The engineering data contained herein have been prepared on behalf of LA DOV EDUCATIONAL OUTREACH, INC. ("La Dov"), applicant for a new noncommercial television station on Channel 52 in Sacramento, California (BPET-900312KG), in support of its Comments regarding the Commission's *Sixth Further Notice of Proposed Rule Making* concerning the assignment of digital television (DTV) channels to existing television (NTSC) broadcast stations.

In its *Sixth Further Notice* the FCC proposes to assign only DTV channels 7 through 51 (the core region) wherever possible in order ultimately to recover television channels 2-6 and 52-69 at the conclusion of a transition period in which the broadcasters will operate both DTV and NTSC facilities. In cases where the DTV channel is outside the core region, the broadcaster is expected to convert its NTSC facility to DTV at the end of the transition period.

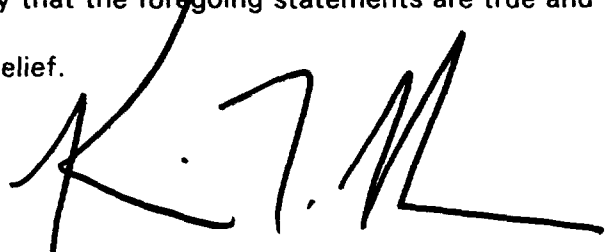
Unfortunately, the FCC has not assigned a DTV channel to the NTSC Channel 52 allocation in Sacramento. However, based upon a spacing study of the allocation table that appears in the Commission's *Sixth Further Notice*, it appears that NTSC Channel 52 can be implemented in Sacramento without deleterious effect on DTV operations in the vicinity. While the Commission proposes to assign DTV Channel 52 to WCAH, Watsonville, California, the 126-mile separation and the intervening terrain will help insure that neither station will cause interference to the other. In addition, the FCC proposes to assign DTV Channel 53 to KXTL in Sacramento. Since KXTL is in the

Sacramento antenna farm, and since this is the same site specified by La Dov, the two facilities would be essentially colocated (assuming that KXTL will colocate its DTV facility with its NTSC facility). Such a scenario minimizes the possibility of interference between NTSC Channel 52 in Sacramento and the use of DTV Channel 53 by KXTL.

La Dov's application for Channel 52 has been pending since March, 1990, awaiting the outcome of the DTV proceeding, so that its proposal can be processed. To whatever extent the DTV process can be concluded, La Dov is supportive of those efforts. La Dov also supports the DTV table of assignments contained in the *Sixth Further Notice*. However, La Dov respectfully requests that a DTV channel be assigned to the noncommercial television allotment on Channel 52 in Sacramento, so that the future educational programming from that allotment will survive following the transition period.

If this request cannot be granted, La Dov opposes the Commission's packing and reclamation plan, since Channel 52 is outside the core region and would therefore be subject to reclamation after the transition period. If the Commission allowed DTV operation on all UHF channels, a DTV channel could easily be found for NTSC Channel 52 in Sacramento.

I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge and belief.

A handwritten signature in black ink, appearing to read 'K. T. Fisher', with a long horizontal line extending to the right.

KEVIN T. FISHER

November 18, 1996